

Jason M. Drangel (JD 7204)
jdrangel@ipcounselors.com
Ashly E. Sands (AS 7715)
asands@ipcounselors.com
Danielle S. Futterman (DY 4228)
dfutterman@ipcounselors.com
Gabriela N. Nastasi
gnastasi@ipcounselors.com
EPSTEIN DRANGEL LLP
60 East 42nd Street, Suite 1250
New York, NY 10165
Telephone: (212) 292-5390
Facsimile: (212) 292-5391
Attorneys for Plaintiff
M. Eagles Tool Warehouse, Inc. d/b/a S&G Tool Aid Corp

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

M. EAGLES TOOL WAREHOUSE, INC. d/b/a S&G
TOOL AID CORP,

Plaintiff

v.

AIJIE_GARFIELD, BETAKING, CHUANGROUP3,
CHUNYANUS, GOODSERVICEXU2012,
GOODSTORE0, HEYUAN001, HWLAND,
LIANTECH00A, LKGOOD1,
LONGLONGLONG001, PARTSZHANGUS,
ROSE ROSEILOVEU, SEDYONLINE2016,
TANGXINQI002, YBPLUS001, YBPLUS002,
YBPLUS003, YUNCHAUNGKE001 and
YUNCHAUNGKE006,


Defendants

**CIVIL CASE No.
23-cv-6257 (JPO)**

**FINAL DEFAULT JUDGMENT
AND PERMANENT
INJUNCTION ORDER**

GLOSSARY

<u>Term</u>	<u>Definition</u>	<u>Docket Entry No.</u>
Plaintiff or Tool Aid	M. Eagles Tool Warehouse, Inc. d/b/a S&G Tool Aid Corp	N/A
Defendants	Aijie_Garfield, Betaking, Chuangroup3, chunyanUS, goodservicexu2012, goodstore0, heyuan001, HWLAND, Liantech00a, LKGOOD1, LongLongLong001, partszhangus, RoseRoseILoveU, sedyonline2016, Tangxinqi002, YBplus001, YBPLUS002, ybplus003, yunchaungke001 and Yunchaungke006	N/A
Defaulting Defendants	Aijie_Garfield, Betaking, Chuangroup3, chunyanUS, goodstore0, heyuan001, Liantech00a, LKGOOD1, RoseRoseILoveU, Tangxinqi002, YBplus001, YBPLUS002 and ybplus003	N/A
eBay	eBay.com, a San Jose, California-based online marketplace and e-commerce platform owned by eBay Inc., a Delaware corporation, that allows manufacturers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale and/or sell in what it characterizes as either auction-style or fixed-price formats and ship their retail products, which, upon information and belief, originate from China, among other locations, directly to consumers worldwide and specifically to consumers residing in the U.S., including in New York	N/A
Sealing Order	Order to Seal File entered on July 18, 2023	Dkt. 1
Complaint	Plaintiff's Complaint filed on July 20, 2023	Dkt. 7
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff	N/A
New York Address	244 Madison Ave, Suite 411, New York, NY 10016	N/A
Application	Plaintiff's <i>ex parte</i> Application for: 1) a temporary restraining order; 2) an order restraining Defendants' Merchant Storefronts (as defined <i>infra</i>) and Defendants' Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery filed on July 20, 2023	Dkts. 12-14
Villanueva Dec.	Declaration of Anthony Villanueva in Support of Plaintiff's Application	Dkt. 14
Nastasi Dec.	Declaration of Gabriela N. Nastasi in Support of Plaintiff's Application	Dkt. 13
Tool Aid Products	A wide range of general tools, equipment and mechanics' aids used in the automotive, heavy duty, electronics,	N/A

	agriculture, marine and related industries, including but not limited to probe kits	
Tool Aid Marks	U.S. Trademark Registration Nos.: 1,593,839 for “TOOL AID” for a variety of goods in Classes 8 and 9; 1,593,841 for “  ” for a variety of goods in Classes 8 and 9; 1,676,648 for “FINGER SAVER” for goods in Class 9; 1,687,707 for “PROTECT-A-TERMINAL” for goods in Class 8; and 3,014,603 for “THE STRUTTER” for goods in Class 8	N/A
Counterfeit Products	Products bearing or used in connection with the Tool Aid Marks, and/or products in packaging and/or containing labels bearing the Tool Aid Marks, and/or bearing or used in connection with marks that are confusingly similar to the Tool Aid Marks and/or products that are identical or confusingly similar to the Tool Aid Products	N/A
User Accounts	Any and all websites and any and all accounts with online marketplace platforms such as eBay, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them	N/A
Merchant Storefronts	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them	N/A
Infringing Listings	Defendants’ listings for Counterfeit Products	N/A
Defendants’ Assets	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)	N/A
Defendants’ Financial Accounts	Any and all financial accounts associated with or utilized by any Defendants or any of Defendants’ User Accounts or Defendants’ Merchant Storefronts (whether said accounts are located in the U.S. or abroad)	N/A
Financial Institutions	Any banks, financial institutions, credit card companies and payment processing agencies, such as PayPal Inc. (“PayPal”), Payoneer Inc. (“Payoneer”), PingPong Global Solutions, Inc. (“PingPong”) and other companies or	N/A

	agencies that engage in the processing or transfer of money and/or real or personal property of Defendants	
Third Party Service Providers	Online marketplace platforms, including, without limitation, eBay, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise	N/A
Plaintiff's Motion for Default Judgment	Plaintiff's Motion for Default Judgment and a Permanent Injunction Should Not be Entered Against Defaulting Defendants filed on February 9, 2024	TBD
Nastasi Aff.	Affidavit by Gabriela N. Nastasi in Support of Plaintiff's Motion for Default Judgment	TBD

This matter comes before the Court by motion filed by Plaintiff for the entry of final judgment and permanent injunction by default against Defaulting Defendants for Defaulting Defendants' trademark infringement, trademark counterfeiting, false designation of origin, passing off and unfair competition and related state and common law claims arising out of Defaulting Defendants' unauthorized use of Plaintiff's Tool Aid Marks, without limitation, in their manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying or offering for sale and/or selling and/or sale of Counterfeit Products.

The Court, having considered the Memorandum of Law and Affidavit of Gabriela N. Nastasi in support of Plaintiff's Motion for Default Judgment and a Permanent Injunction Against Defaulting Defendants, the Certificate of Service of the Summons and Complaint, the Certificate of the Clerk of the Court stating that no answer has been filed in the instant action, and upon all other pleadings and papers on file in this action, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. Defaulting Defendants' Liability

- 1) Judgment is granted in favor of Plaintiff on all claims properly pled against Defaulting Defendants in the Complaint;

II. Damages Awards

- 1) IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that because it would serve both the compensatory and punitive purposes of the Lanham Act's prohibitions on willful infringement, and because Plaintiff has sufficiently set forth the basis for the statutory damages award requested in its Memorandum of Law in Support of its Motion for Default Judgment, the Court finds such an award to be reasonable and Plaintiff is awarded Fifty Thousand Dollars (\$50,000.000) in statutory damages against the following thirteen (13) Defaulting Defendants: Aijie_Garfield, Betaking, Chuangroup3, chunyanUS, goodstore0, heyuan001, Liantech00a,

LKGOOD1, RoseRoseILoveU, Tangxinqi002, YBplus001, YBPLUS002 and ybplus003 (“Defaulting Defendants’ Individual Damages Award”) pursuant to 15 U.S.C. § 1117(c) of the Lanham Act, plus post-judgment interest.

III. Permanent Injunction

1) IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Defaulting Defendants, their respective officers, agents, servants, employees and all persons acting in concert with or under the direction of Defaulting Defendants who receive actual notice of this Order are permanently enjoined and restrained from engaging in any of the following acts or omissions in the United States (with the exception of the acts and omissions described in paragraphs G and H below, which shall apply worldwide):

- A. manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products or any other products bearing the Tool Aid Marks and/or marks that are confusingly similar to, identical to and constitute a counterfeiting and/or infringement of the Tool Aid Marks;
- B. operation of Defendants’ User Accounts and Defendants’ Merchant Storefronts, including, without limitation, continued operation of Defendants’ User Accounts and Merchant Storefronts in violation of this Order;
- C. directly or indirectly infringing in any manner Plaintiff’s Tool Aid Marks;
- D. using any reproduction, counterfeit, copy or colorable imitation of Plaintiff’s Tool Aid Marks to identify any goods or services not authorized by Plaintiff;
- E. using Plaintiff’s Tool Aid Marks and/or any other marks that are confusingly similar to the Tool Aid Marks on or in connection with the manufacturing, importing, exporting,

advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;

- F. using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defendants and Defendants' commercial activities and Plaintiff;
- G. secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products; (ii) any computer files, data, business records, documents or any other records or evidence relating to their User Accounts, Merchant Storefronts or Defendants' Assets and the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products; and
- H. effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Account, Merchant Storefront or any other means of importation exportation, advertising, marketing, promotion, distribution, displaying, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order.

- 2) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defaulting Defendants must deliver up for destruction to Plaintiff any and all Counterfeit Products and any and all

packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of Defaulting Defendants that infringe Plaintiff's Tool Aid Marks or bear any marks that are confusingly similar to the Tool Aid Marks pursuant to 15 U.S.C. § 1118.

- 3) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defaulting Defendants and all persons in active concert and participation with them who receive actual notice of this Order, including the Third Party Service Providers and Financial Institutions who satisfy those requirements and are identified in this Order, are permanently enjoined and restrained from:

A. secreting, concealing, transferring, disposing of, withdrawing, encumbering or paying Defaulting Defendants' Assets from or to Defaulting Defendants' Financial Accounts.

- 4) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defaulting Defendants and all persons in active concert and participation with them who receive actual notice of this Order, including the Third Party Service Providers who satisfy those requirements and are identified in this Order, are permanently enjoined and restrained from:

A. operation of Defaulting Defendants' Merchant Storefronts that have offered for sale and/or sold Counterfeit Products, including, without limitation, continued operation of Defaulting Defendants' Merchant Storefronts that have offered for sale and/or sold Counterfeit Products; and

B. knowingly instructing, aiding or abetting any other person or business entity in engaging in any of the activities referred to in subparagraphs III(1)(A) through III(4)(A) above.

IV. Dissolution of Rule 62(a) Stay

- 1) IT IS FURTHER ORDERED, as sufficient cause has been shown, the 30 day automatic stay on enforcing Plaintiff's judgment, pursuant to Fed. R. Civ. Pro. 62(a) is hereby dissolved.

V. Miscellaneous Relief

- 1) Any failure by Defaulting Defendants to comply with the terms of this Order shall be deemed contempt of Court, subjecting Defaulting Defendants to contempt remedies to be determined by the Court, including fines and seizure of property;
- 2) The Court releases the Five Thousand U.S. Dollar (\$5,000.00) security bond that Plaintiff submitted in connection with this action to counsel for Plaintiff, Epstein Drangel, LLP, 60 East 42nd Street, Suite 1250, New York, NY 10165; and
- 3) This Court shall retain jurisdiction over this matter and the parties in order to construe and enforce this Order.

The Clerk of Court is directed to terminate the motion at ECF No. 32 and to mark this case as closed.

SO ORDERED.

**Dated: New York, NY
June 10, 2024
2:30 p.m.**



J. PAUL OETKEN
United States District Judge